

1-1 By: Rodriguez, et al. S.B. No. 459
1-2 (In the Senate - Filed February 8, 2013; February 13, 2013,
1-3 read first time and referred to Committee on Transportation;
1-4 April 8, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 8, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Nichols</u>	X		
1-10	<u>Paxton</u>	X		
1-11	<u>Campbell</u>	X		
1-12	<u>Davis</u>	X		
1-13	<u>Ellis</u>	X		
1-14	<u>Hancock</u>	X		
1-15	<u>Patrick</u>	X		
1-16	<u>Uresti</u>	X		
1-17	<u>Watson</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 459 By: Paxton

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the sale, storage, transportation, and disposal of
1-22 scrap, unsafe, or used tires; providing a civil penalty; creating
1-23 an offense.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Title 6, Business & Commerce Code, is amended by
1-26 adding Chapter 205 to read as follows:

1-27 CHAPTER 205. SALE AND TRANSPORTATION OF SCRAP, UNSAFE, OR USED
1-28 TIRES

1-29 Sec. 205.001. DEFINITIONS. In this chapter:

1-30 (1) "Scrap tire" and "used tire" have the meanings
1-31 assigned to those terms by Section 361.1121, Health and Safety
1-32 Code.

1-33 (2) "Unsafe tire" has the meaning assigned by Section
1-34 547.201(c), Transportation Code.

1-35 Sec. 205.002. RETENTION AND DISPOSAL OF SCRAP OR UNSAFE
1-36 TIRES. (a) Except as provided by Subsection (c), a retail seller
1-37 shall prohibit a customer from retaining a scrap tire or an unsafe
1-38 tire removed from the customer's vehicle during the purchase of a
1-39 tire.

1-40 (b) A retail seller who takes possession of a scrap tire or
1-41 unsafe tire from a customer during a transaction described by
1-42 Subsection (a) shall dispose of the scrap tire or unsafe tire
1-43 according to local and state laws, including Section 361.112(c),
1-44 Health and Safety Code.

1-45 (c) A retail seller is not required to prohibit a customer
1-46 from retaining a scrap tire or unsafe tire removed from the
1-47 customer's vehicle during the purchase of a tire if the customer
1-48 certifies on a form prescribed by the Texas Commission on
1-49 Environmental Quality that:

1-50 (1) the tire will be used in the customer's
1-51 agricultural business; and

1-52 (2) the customer assumes liability for the tire.

1-53 (d) The Texas Commission on Environmental Quality shall
1-54 develop the form described by Subsection (c) and shall make that
1-55 form available on the commission's Internet website.

1-56 Sec. 205.003. TRANSPORTATION OF SCRAP, UNSAFE, OR USED
1-57 TIRES. A retail seller of tires may contract for the transportation
1-58 of scrap tires, unsafe tires, or used tires only with a scrap tire
1-59 transporter or used tire transporter who:

1-60 (1) is registered as described by Section 361.1121(b),

2-1 Health and Safety Code; and
 2-2 (2) has filed evidence of financial assurance
 2-3 according to Section 361.1121(d), Health and Safety Code.
 2-4 Sec. 205.004. CIVIL PENALTY. (a) A person who violates
 2-5 this chapter is subject to a civil penalty in an amount not less
 2-6 than \$500 for each violation. A separate penalty may be imposed for
 2-7 each day a violation occurs.
 2-8 (b) The attorney general or the appropriate district or
 2-9 county attorney may bring an action against a person under this
 2-10 section in the name of the state in a district court in the county in
 2-11 which:
 2-12 (1) the person resides; or
 2-13 (2) the person's principal place of business is
 2-14 located.
 2-15 SECTION 2. The heading to Section 361.112, Health and
 2-16 Safety Code, is amended to read as follows:
 2-17 Sec. 361.112. STORAGE [~~, TRANSPORTATION,~~] AND DISPOSAL OF
 2-18 USED OR SCRAP TIRES.
 2-19 SECTION 3. Section 361.112, Health and Safety Code, is
 2-20 amended by adding Subsection (n) to read as follows:
 2-21 (n) A scrap tire generator or used tire generator, including
 2-22 a tire dealer, junkyard, or fleet operator, who stores scrap tires
 2-23 or used tires outdoors on its business premises shall store the
 2-24 scrap tires or used tires in a manner that may be made secure by
 2-25 locking.
 2-26 SECTION 4. Subchapter C, Chapter 361, Health and Safety
 2-27 Code, is amended by adding Section 361.1121 to read as follows:
 2-28 Sec. 361.1121. SCRAP AND USED TIRE TRANSPORTERS. (a) In
 2-29 this section:
 2-30 (1) "Scrap tire" means a tire that can no longer be
 2-31 used for its original intended purpose.
 2-32 (2) "Scrap tire transporter" means a person who
 2-33 collects scrap tires from another person for the purpose of removal
 2-34 to a scrap tire processor, end user, or disposal facility.
 2-35 (3) "Used tire" means a tire that:
 2-36 (A) has been used as a tire on a vehicle;
 2-37 (B) has tire tread at least one-sixteenth inch
 2-38 deep; and
 2-39 (C) can still be used for its original intended
 2-40 purpose.
 2-41 (4) "Used tire transporter" means a person who
 2-42 collects used tires from another person for the purpose of removal
 2-43 to a scrap tire processor, end user, or disposal facility.
 2-44 (b) A scrap tire transporter or used tire transporter shall
 2-45 register with the commission unless the scrap tire transporter or
 2-46 used tire transporter is:
 2-47 (1) a retreader who transports retreadable casings; or
 2-48 (2) a person who transports scrap tires or used tires
 2-49 that are intended for use in that person's agricultural business
 2-50 and who does not transport at one time a number of scrap tires or
 2-51 used tires that exceeds a number determined by commission rule.
 2-52 (c) A scrap tire transporter or used tire transporter who is
 2-53 required to register with the commission shall:
 2-54 (1) obtain a surety bond from a surety company
 2-55 authorized to transact business in this state;
 2-56 (2) establish a trust account; or
 2-57 (3) obtain an irrevocable letter of credit.
 2-58 (d) The bond, trust account, or irrevocable letter of credit
 2-59 described by Subsection (c) must be:
 2-60 (1) filed with the commission;
 2-61 (2) in an amount of \$100,000 or more; and
 2-62 (3) in favor of this state.
 2-63 (e) Money that the commission receives from a bond, trust
 2-64 account, or letter of credit obtained to meet the requirements of
 2-65 Subsection (c) may be used for the cleanup of abandoned tire storage
 2-66 sites.
 2-67 (f) The commission shall require a scrap tire transporter or
 2-68 used tire transporter to maintain records and use a manifest or
 2-69 other appropriate system to assure that tires are transported to a

3-1 storage site that is registered or to a site or facility authorized
3-2 by the commission.

3-3 SECTION 5. Section 547.201, Transportation Code, is amended
3-4 by adding Subsections (c), (d), (e), and (f) to read as follows:

3-5 (c) A person may not sell at retail an unsafe tire. In this
3-6 subsection, "unsafe tire" means a passenger or light truck tire
3-7 that:

3-8 (1) has tire tread less than one-sixteenth inch deep;

3-9 (2) has chunking, bumps, knots, or bulges evidencing
3-10 cord, ply, or tread separation from the casing or other adjacent
3-11 material;

3-12 (3) has exposed tire cords or belting material as a
3-13 result of damage to the tire;

3-14 (4) has a repair to the tire in the tread shoulder,
3-15 sidewall, bead area, or belt edge area;

3-16 (5) has a puncture that has not been sealed or patched
3-17 on the inside with a cured rubber stem or plug that extends through
3-18 to the outside surface;

3-19 (6) does not clearly show the United States Department
3-20 of Transportation tire identification number located on the
3-21 sidewall of the tire;

3-22 (7) is subject to a manufacturer's safety recall;

3-23 (8) has a puncture larger than one-quarter inch; or

3-24 (9) does not otherwise meet department safety
3-25 standards under Section 547.101.

3-26 (d) Subsection (c) does not apply to a mounted tire sold
3-27 with a used vehicle.

3-28 (e) A person commits an offense under Subsection (c) for the
3-29 sale of an unsafe tire described by Subsection (c)(7) only if the
3-30 seller of the tire knew or had reason to know that the tire was
3-31 subject to a manufacturer's safety recall at the time of the sale.

3-32 (f) A person who violates Subsection (c) commits an offense.
3-33 An offense under this subsection is a Class A misdemeanor.

3-34 SECTION 6. Subsection (a), Section 7.303, Water Code, is
3-35 amended to read as follows:

3-36 (a) This section applies to a license, certificate, or
3-37 registration issued:

3-38 (1) by the commission under:

3-39 (A) Section 26.0301;

3-40 (B) Chapter 37;

3-41 (C) Section 361.0861, 361.092, [~~or~~] 361.112, or
3-42 361.1121, Health and Safety Code;

3-43 (D) Chapter 366, 371, or 401, Health and Safety
3-44 Code; or

3-45 (E) Chapter 1903, Occupations Code;

3-46 (2) by a county under Subchapter E, Chapter 361,
3-47 Health and Safety Code; or

3-48 (3) under a rule adopted under any of those
3-49 provisions.

3-50 SECTION 7. Subsection (g), Section 361.112, Health and
3-51 Safety Code, is repealed.

3-52 SECTION 8. This Act takes effect September 1, 2013.

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